IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

WEDNESDAY, THE 11TH JULY 2007 / 20TH ASHADHA 1929

WP(C).No. 19296 of 2004(V)

AGAINST THE ORDER DATED 24 /03 /2004 IN EP.18/2001 IN OS.945/1993 OF PRL.SUB COURT,KOTTAYAM

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PETITIONER:

SOMAN, THAZHATHETHIL VEETTIL,
MUKKATTU PADIYIL, THRIKODITHANAM VILLAGE,
CHANGANACHERRY.

BY ADV. SRI.MATHEW JOHN (K)
SRI.SUJESH MENON V.B.

RESPONDENTS:

ULAHANNAN, S/O. KURIAKOSE, MANAKKATTU
HOUSE, ADAKKATTUVAYAL P.O.,
ARAKUNNAM, ERNAKULAM.

BY ADV. SRI.PEEYUS A.KOTTAM
SRI.KURIAN JOSEPH (ARAKKUNNAM)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXTS:

EXT.P1 TRUE COPY OF THE EXECUTION PETITION DTD. 29/8/2000.

EXT.P2 TRUE COPY OF THE AFFIDAVIT L;FILED BY THE RESPONDENT.

EXT.P3 TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER.

EXT.P4 TRUE COPY OF THE ORDER DTD. 24/3/2004 IN E.P.NO.18/2001 IN O.S.NO.945/1993 OF THE PRL.SUB COURT, KOTTAYAM.

P.R.RAMAN J.

W.P.(C).No.19296 2004

Dated this the 11th day of July, 2007

JUDGMENT

Petitioner is a judgment debtor in E.P.No.18/2001. The decree holder sought to execute the decree for the realisation of an amount of Rs.50,018/-. In the said execution proceedings by Ext.P4 the judgment debtor was ordered to be arrested, after rejecting his plea of no means. Decree holder was examined in the case as PW-1 . He gave oral evidence to the effect that the judgment debtor is a dealer in chicken and gets a margin of Rs.3/- per one kilogram and he conducts a trade in 2000 kilograms per day. Apart from that he also possessed a tempo van and in spite of that he is evading payment. This evidence on the part of the decree holder is the only evidence available in this case. The judgment debtor did not mount the box denying the statement made in the petition. In the absence of any contra evidence, the court below having accepted the evidence of PW-1, ordered arrest of the petitioner.

2. In the circumstances, it cannot be said that the order suffers from any illegality. In this connection, it is to be noticed that even though the

petitioner was given an opportunity to pay an amount of Rs.25,000/- as a condition for stay, subsequently the stay was vacated for non-compliance of the order. In the above circumstances, I find no merit in the writ petition.

Accordingly, the Writ Petition is dismissed.

P.R.RAMAN,
Judge.

kcv.